UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Paragon Systems Inc.
Employer

and **Case 21-RC-262136**

Law Enforcement Officers Security Unions LEOSUCA, LEOS-PBA
Petitioner

and

International Union, Security, Police and Fire Professionals of America, (SPFPA) and its affiliated Local 3
Intervenors

PETITIONER'S OPPOSITION TO REQUEST FOR REVIEW

Pursuant to Section 102.67(f) of the Board's Rules and Regulations, Petitioner Law Enforcement Officers Security Unions LEOSUCA, LEOS-PBA ("LEOS"), by its undersigned counsel, submits this Opposition to the Intervenors' Request for Review.

The Intervenors assert three issues which should be addressed by the Board:

> whether the instant petition was procedurally deficient because it has had two (2) case numbers, whether withdrawal of the petition for the same matter was improperly approved, and whether the Denial improperly punishes the Intervenor for raising a meritorious contract bar argument.

The Board should not grant the Request.

As to the first issue, it is undisputed that the Petition did not have two case numbers. To the contrary, it is undisputed that the two petitions were similar, but not identical. They were separate petitions with separate case numbers.

The following facts are undisputed:

On June 11, 2020, the Petitioner filed a Petition seeking an election in the following unit of Paragon employees:

> All full time and regular part time, armed and unarmed security officers employed by the Company, performing guard duties as defined by Section 9(b)(3) of the National Labor Relations Act pursuant to contract HSCEW9-08-Q-00006 contract covering the same facilities and services, between the Company and the United States Department of Homeland Security (DHS) for the provision of security services at certain federal facilities in the Los Angeles and surrounding areas.

The Petition sought a unit of 324 employees and was docketed as Case No. 21-RC-261540.

When the Intervenors asserted that the Petition in Case no. 21-RC-261540 was barred by a collective bargaining agreement, on June 24, the Petitioner filed a Petition seeking an election in the following unit of Paragon employees:

> All full time and regular part time, armed and unarmed security officers employed by the Company, performing guard duties as defined by Section 9(b)(3) of the National Labor Relations Act pursuant to contract HSCEW9-08-Q-00006 contract covering the same facilities and services, between the Company and the United States Department of Homeland Security (DHS) for the provision of security services at certain federal facilities in the Los Angeles, Orange County and surrounding areas.

This Petition sought a unit of 351 employees in Los Angeles and Orange County, and was docketed as Case No. 21-RC-262136.

Thus, the Intervenors' first issue does not warrant Board review.[1]

Equally without merit is the Intervenors' third issue. The Intervenors correctly argued that the petition in Case No. 21-RC-261540 was barred by a contract bar. Rather than litigate the contract bar, the Petitioner waited for the window period and filed a new Petition, which was docketed as Case No. 21-RC-262136.

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[1]The Petition in Case No. 21-RC-262136 added 27 employees to the unit. The parties stipulated to the larger unit. The Intervenors did not argue that the Employer had merely hired additional employees. Adding Orange County changed the unit.

Board policy does not prevent the filing of a second, timely, petition when the first petition is untimely under the contract bar rule. Accepting the Intervenors' position would mean that an untimely petition permanently as a matter of law prevents the filing of a timely petition in the window period or after the expiration of the contract (or its three year period) asserted as a bar. The Intervenors seek to punish the employees they claim to represent by denying them the free election the Board is required to administer. Simply stated, permitting the Petitioner to file a timely Petition does not penalize the Intervenors for asserting a contract bar.

Finally, as to the second issue, there is no evidence that "withdrawal of the petition for the same matter was improperly approved." The Intervenors' reliance upon Section 11111 of the Casehandling Manual and HOW TO TAKE A CASE BEFORE THE NLRB is misplaced. That Section requires the Regions to deny a request to withdraw a valid petition when the petitioner takes actions inconsistent with the withdrawal. Here, the parties agree that the petition in Case No. 21-RC-261540 was untimely and could not have resulted in an election once the Intervenors raised the contract bar defense.

Furthermore, Section 11110 of the Casehandling Manual distinguishes between valid petitions and "where absent a withdrawal, the petition will be dismissed." This is a case where the petition in Case No. 21-RC-261540 would have been dismissed.

Finally, Section §102.121 of the Board's Rules states that "The Rules and Regulations in this part will be liberally construed to effectuate the purposes and provisions of the Act." A basic purpose and policy of the Act allows employees the right to select a union of their choosing and, conversely, replace a union which no longer serves adequately. Dismissing the Petition simply

because of a one-day overlap serves only to bind the employees to a union a substantial number seek to replace. Dismissal would not further the purposes of the Act.

The Request for Review should be denied.

Respectfully submitted,

/s/ Jonathan Axelrod

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